

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DAVON BRYANT,

Plaintiff,

-against-

Lieutenant JAMES GEBBIA; Police Officer
DIERY LOUIS, Shield No. 29819; Police Officer
CHARLES FOX, Shield No. 31129; and JOHN
and JANE DOE 1 through 10, individually and in
their official capacities (the names John and Jane
Doe being fictitious, as the true names are presently
unknown),

Defendants.

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COMPLAINT

Jury Trial Demanded

14 CV 4384

NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331 and 1343.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

PARTIES

6. Plaintiff Davon Bryant (“plaintiff” or “Mr. Bryant”) is a resident of Kings County in the City and State of New York.

7. Defendant Lieutenant James Gebbia (“Gebbia”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Gebbia is sued in his individual and official capacities.

8. Defendant Police Officer Diery Louis, Shield No. 29819 (“Louis”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Louis is sued in his individual and official capacities.

9. Defendant Police Officer Charles Fox, Shield No. 31129 (“Fox”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Fox is sued in his individual and official capacities.

10. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

11. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of the City of New York and the

NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

12. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

13. At approximately 10:30 p.m. on August 31, 2013, Mr. Bryant was in police custody in front of 170 Howard Avenue in Brooklyn, New York.

14. Mr. Bryant had just been handcuffed on the ground and was lying there, prone and compliant, when a defendant officer approached him and struck him in the head with a hard metal object.

15. The defendant officers then viciously beat Mr. Bryant, especially about the face.

16. A crowd of people witnessed the assault, including the proprietor of a salon in the immediate vicinity.

17. Following the assault, Mr. Bryant was bleeding from his head and face.

18. Despite his obviously severe injuries, the defendants did not call an ambulance for Mr. Bryant and instead left him to bleed in the back of a police vehicle that was driven to the 81st Precinct.

19. At the precinct, the defendants continued to refuse Mr. Bryant medical care.

20. Mr. Bryant, bloody, in extreme pain and discomfort and in urgent need of medical attention, was placed in a cell.

21. When an ambulance ultimately arrived approximately two hours later, Officer Louis forced Mr. Bryant to travel to the hospital without his shoes or shirt.

22. Mr. Bryant was taken to Woodhull Hospital.

23. At the hospital, while Mr. Bryant remained handcuffed, medical staff used four staples to close his head injury and seven stitches to close a deep laceration over his right eyebrow.

24. Mr. Bryant subsequently returned to the hospital for removal of the staples and stitches.

25. Plaintiff sustained damages as a result of defendants' actions. Plaintiff suffered, *inter alia*, emotional distress, mental anguish, fear, pain, bodily injury and anxiety.

FIRST CLAIM
Unreasonable Force

26. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

27. The defendants violated the Fourth and Fourteenth Amendments because they used unreasonable force on plaintiff.

28. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

SECOND CLAIM
Deliberate Indifference to Medical Needs

29. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

30. The individual defendants were aware that plaintiff was in urgent need of medical care for serious injuries and failed to act, in deliberate indifference to plaintiff's needs.

31. Accordingly, defendants violated the Fourteenth Amendment.

32. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

THIRD CLAIM
Failure To Intervene

33. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

34. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

35. Accordingly, the defendants who failed to intervene violated the Fourth and Fourteenth Amendments.

36. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

Dated: July 18, 2014
New York, New York

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